

28 NOV 1983

CERTIFIED MAIL--
RETURN RECEIPT REQUESTED

John K. Enright, Esq.
Kirsten, Friedman & Cherin, P.C.
17 Academy Street
Newark, New Jersey 07102

Re: Central Steel Drum
Docket No. II RCRA-82-0112

Dear Mr. Enright:

Enclosed please find a copy of the Consent Agreement and Final Compliance Order signed by the parties and issued by the EPA Regional Administrator for Region II. The first payment pursuant to this Order is due December 10, 1983.

Thank you for your cooperation in reaching this final agreement.

Sincerely yours,

William K. Sawyer
Attorney
Waste and Toxic Substances Branch
Office of Regional Counsel

Enclosure

cc: Gerald Burke
Office of Regulatory Services
New Jersey Department of Environmental Protection

bcc: Alan Feldman, WH-527
John Chang Chen, AWM-SW
✓Charles Zafonte, 2PM-PA
Cynthia S. Pabon, RHC, 2PM-PA

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION II

-----X
In the Matter of :
CENTRAL STEEL DRUM, INC. :
NJD011482577 :
E0403 29000 :
6000 AC Respondent. :
Proceeding Under Section 3008 of :
the Solid Waste Disposal Act, :
amended. :
-----X

12/10
2/1
4/1
6/1
8/1
10/1
12/1

CONSENT AGREEMENT AND
FINAL COMPLIANCE ORDER

Docket No. II RCRA-82-0112

PRELIMINARY STATEMENT

This administrative proceeding was instituted pursuant to Section 3008 of the Solid Waste Disposal Act, as amended, 42 U.S.C. §6901 et seq. ("the Act").

Note: Among the statutes amending the Act is the Resource Conservation and Recovery Act, 90 Stat. 2795, P.L. 94-580 (1976)].

The Director of the Enforcement Division of the U.S. Environmental Protection Agency ("EPA"), Region II, Complainant in this proceeding, issued a Complaint, Compliance Order and Notice of Opportunity for Hearing to Respondent, Central Steel Drum, Inc. on March 19, 1982. Said document charged Respondent with certain violations of Sections 3002 and 3004 of the Act, 42 U.S.C. §§6922 and 6924, and the regulations promulgated thereunder. Respondent filed an Answer on April 28, 1982 denying all the allegations set forth in the Complaint and providing a response to all of the EPA's allegations. On May 27, 1983 Complainant alleged certain additional violations by the Respondent and filed a Motion for Leave to Amend the Complaint issued on March 19, 1982. Administrative Law Judge

Harwood granted Complainant's Motion, and on June 27, 1983 Respondent filed an Answer to the Amended Complaint.

This Consent Agreement and Final Compliance Order is being entered into by the parties in full settlement of all liabilities which might have attached as a result of the proceedings. Respondent acknowledges the jurisdiction of the EPA to proceed in this matter and to issue this Order. Respondent has read the Final Compliance Order set out herein, and without any admission of liability, Respondent believes that the Compliance Order is reasonable and consents to its issuance and its terms. Respondent furthermore waives its right to receive a hearing on the above-referenced Final Compliance Order, and agrees to pay a penalty in the amount and according to the schedule called for in the Order herein.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Respondent owns and operates a facility located at 704 Doremus Avenue, Newark, New Jersey ("the facility").
2. The EPA alleged that Respondent informed EPA, pursuant to Section 3010 of the Act, that it conducts activities at the facility involving "hazardous waste", as that term is defined in Section 1004(5) of the Act, 42 U.S.C. §6904(5) and in 40 CFR §261.3. Respondent did not submit Part A of a hazardous waste permit application pursuant to 40 CFR §122.22. These allegations were all denied by the Respondent.
3. On December 7, 1981 and December 28, 1981, inspections of the facility were conducted by duly-designated representatives of EPA pursuant to Section 3007 of the Act, 42 U.S.C. §6927. Said inspections were conducted for the purpose of enforcing the EPA regulations for hazardous waste management, 40 CFR Parts 260

through 265 (published in 45 Fed. Reg. 33073 et seq., May 19, 1980 and as subsequently amended), promulgated pursuant to Subtitle C of the Act, 42 U.S.C. §6921 et seq.

4. It is the position of the Complainant that the above-referenced inspections revealed that Respondent's facility was being used for the generation, treatment, storage and disposal of hazardous waste. These allegations were denied by the Respondent who maintains it does not treat, store or dispose of hazardous waste.

5. Section 3005(a) of the Act, 42 U.S.C. §6925(a) prohibits the treatment of hazardous waste without a hazardous waste permit. EPA alleged that sludge being treated in an incinerator by the Respondent is hazardous waste and that Respondent has not received a hazardous waste permit. EPA alleges that Respondent is in violation of Section 3005(a) of the Act. Respondent has denied all of these allegations and maintained that it does not treat sludge per se but rather the sludge is a residual product of its entire process.

6. Section 3005(a) of the Act, 42 U.S.C. §6925(a), prohibits the disposal of hazardous waste without a hazardous waste permit. At the time of the above-referenced December 7, 1981 and December 28, 1981 inspections, the EPA alleged that Respondent was disposing of hazardous sludge and ash on the ground without having received a hazardous waste permit. EPA alleged that Respondent was in violation of Section 3005(a) of the Act. All these allegations were denied by the Respondent.

7. Section 3005(a) of the Act, 42 U.S.C. §6925(a), prohibits the storage of hazardous waste without a hazardous waste permit. EPA alleged that at the

time of the above-referenced December 7, 1981 and December 28, 1981 inspections, Respondent was storing ash in a pile without having received a hazardous waste permit even though analysis by others had determined the ash to be hazardous. EPA alleged that Respondent was in violation of Section 3005(a) of the Act. All of these allegations were denied by the Respondent and Respondent maintained that prior to December 7, 1981, it had in its possession an analysis of its residual product (sludge) which showed that it was non-hazardous.

8. 40 CFR Part 262 sets standards for all generators of hazardous waste.

9. 40 CFR §262.11 requires that a person who generates a solid waste must determine if that waste is hazardous using the methods set forth in that section. The EPA alleged that while separate analyses were ultimately completed, the Respondent had never made, as of December 7, 1981, the required determination for the ash generated at its facility and was, therefore, in violation of 40 CFR §262.11. The Respondent emphatically denied all these allegations and maintained that the proper analysis was timely performed and the analysis of Respondent's residual product showed it was non-hazardous.

10. 40 CFR §262.40(c) requires that a generator keep records of any test results, waste analyses or other determinations made in accordance with 40 CFR §262.11 for at least three years. The EPA alleged that at the time of the above-referenced December 7, 1981 and December 28, 1981 inspections Respondent had no such records and was, therefore, in violation of 40 CFR §262.40(c). The Respondent denied these allegations and maintained that it had kept and maintained the required records.

11. 40 CFR §262.21(a) requires that manifests accompanying the shipment of hazardous waste shall contain an accurate description of the waste. During the above-referenced December 7, 1981 inspection, EPA alleged that Respondent had failed to indicate in its manifests that the waste ash shipped by Respondent was hazardous. The EPA, therefore, maintained that the Respondent was in violation of 40 CFR §262.21(a). The Respondent denied all these allegations and maintained that on December 7, 1981, it had in its possession an analysis which showed that its residual product was non-hazardous. Thus, no manifests were required.

12. 40 CFR §262.42(b) requires that a generator file an Exception Report with EPA if he has not received within 45 days a copy of a manifest with the signature of the owner or operator of the facility to which hazardous waste has been shipped by the generator. The EPA alleged that the signed copy shows receipt of the hazardous waste by the treatment, storage, or disposal facility. The EPA alleged that during the above-referenced December 7, 1981 inspection EPA officials did not find that Respondent had available signed copies of manifests for the shipment of hazardous waste within 45 days of the date the waste was accepted from the Respondent by the initial transporter. The EPA alleged that the Respondent had never filed Exception Reports with EPA and was, therefore, in violation of 40 CFR §262.42(b). The Respondent denied all these allegations and maintains that it had in its possession an analysis showing the waste (residual product) was non-hazardous and thus Respondent was not required to manifest same.

13. 40 CFR Part 265 sets standards for all hazardous waste treatment, storage and disposal facilities. These standards apply until a final administrative disposition on a permit application has been made with respect to a

company's facility. No such disposition has been made with respect to Respondent's facility, and, therefore, the EPA alleged that the standards of Part 265 apply to that facility. The Respondent denied all these allegations and the Respondent maintains it does not operate a facility for the treatment, storage, and disposal of hazardous waste.

14. 40 CFR §265.13 requires that prior to treating, storing, or disposing of any hazardous waste, an owner or operator of a facility must obtain a detailed chemical and physical analysis of a representative sample of the waste. The EPA alleges that during the above-referenced December 7, 1981 and December 28, 1981 inspections, EPA officials found that containers with hazardous waste had been received by Respondent's facility and the EPA alleged that Respondent did not obtain an analysis of samples of the waste prior to treating, storing, or disposing of it. The EPA alleged that Respondent was in violation of 40 CFR §265.13. Respondent denied all these allegations and Respondent maintained it is not a hazardous waste treatment facility and thus it is not bound to the criteria of a hazardous waste treatment facility. Respondent also maintains that all containers on site were empty containers as defined by the Act and Code.

15. 40 CFR §265.35 requires that the owner or operator of a hazardous waste treatment, storage, or disposal facility must maintain aisle space adequate to allow the unobstructed movement of personnel and emergency equipment to any area of the facility operation. At the time of both of the above-referenced inspections, the EPA alleged that the Respondent had stored drums in a manner that did not provide aisle space sufficient to allow unobstructed access by personnel and emergency equipment to the drum processing device and sludge burning incinerator. The EPA alleged that Respondent was in violation of 40 CFR §265.35. The Respondent denied all these allegations.

16. 40 CFR §265.31 requires that the owner or operator of a hazardous waste treatment, storage, or disposal facility must maintain and operate that facility to minimize the possibility of a fire, explosion, or release of hazardous waste to air, soil, or surface water. At the time of the above-referenced December 7, 1981 inspection, the EPA alleged that the Respondent was placing drums with hazardous waste in the drum processing incinerator without minimizing the possible release of hazardous waste into the air. The EPA alleged that at the time of the above-referenced December 7, 1981 and December 28, 1981 inspections, hazardous waste had spilled onto the ground, thereby threatening the release of hazardous waste into soils and surface waters. The EPA alleged that Respondent was on both these dates in violation of 40 CFR §265.31. The Respondent denied all of these allegations.

17. 40 CFR §265.173(a) requires that containers holding hazardous waste remain closed during storage, except when it is necessary to add or remove waste. The EPA alleged that at the time of the above-referenced December 7, 1981 inspection, containers containing ignitable waste were not closed, even though waste was not then being added or removed from those containers. The EPA alleged that Respondent was in violation of 40 CFR §265.173(a). The Respondent denied all of the allegations and the Respondent maintains it does not have any containers with hazardous waste and that irrespective of the statements on the labels of these containers said containers are legally empty.

18. 40 CFR §265.251 requires the owner or operator of a facility that treats or stores hazardous waste in a pile to cover or otherwise manage the pile so that wind dispersal is controlled. During the above-referenced December 7, 1981 and December 28, 1981 inspections, the EPA alleged that Respondent had

not protected said pile from wind dispersal, by cover or other means, a pile of ash constituting hazardous waste. The EPA alleged Respondent was in violation of 40 CFR §265.251. The Respondent denied all these allegations.

19. 40 CFR §265.253 requires that where the leachate or run-off from a pile constitutes a hazardous waste, the owner or operator must protect the pile from precipitation and run-on. The EPA alleged that at the time of both the above-referenced inspections, while the ash pile was allegedly located on a concrete slab, Respondent had not protected the waste ash pile from precipitation and run-on, as required, and was therefore, allegedly in violation of 40 CFR §265.253. The Respondent denied all these allegations and maintained that the concrete slab exists.

20. 40 CFR §265.347 requires that the owner or operator of a facility that treats hazardous waste in an incinerator must immediately make appropriate corrections necessary to maintain steady state combustion conditions. The EPA alleged Respondent treats hazardous waste in its sludge burning incinerator, and the EPA alleged Respondent failed to maintain steady state conditions during combustion in that incinerator. The EPA alleged that Respondent is in violation of 40 CFR §265.347. The Respondent denied all these allegations and it is the position of the Respondent that it does not burn hazardous waste.

21. 40 CFR §265.377 requires that owners or operators of facilities that thermally treat hazardous waste in devices other than incinerators conduct monitoring and inspections, and immediately make necessary corrections to maintain steady state conditions, when those owners or operators are thermally treating hazardous waste. The EPA alleged that Respondent thermally treats hazardous waste in its drum processing device, yet no monitoring, inspection and correc-

tions were carried out and EPA alleged that Respondent was in violation of 40 CFR §265.377. The Respondent denied all these allegations and it is the Respondent's position that it does not burn hazardous waste.

22. On June 13, 1983 Administrative Law Judge Harwood authorized the Complainant to amend its Complaint. The additional allegations made by the Complainant are found in the document entitled "Amendments to the Complaint, Compliance Order, and Notice of Opportunity for Hearing Previously Issued to Central Steel Drum," which is incorporated herein and appended hereto as Attachment I. Respondent's Answer to Amended Complaint is incorporated herein as a statement of Respondent's position with respect to these additional allegations and is appended hereto as Attachment 2.

FINAL CONSENT ORDER

Based upon the foregoing, and pursuant to Section 3008 of the Act and Section 22.18 of the Consolidated Rules of Practices Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits, 40 CFR §22.18, it is hereby ORDERED that Respondent shall hereinafter comply with the following:

1. Respondent shall not accept for processing either any drums containing acute hazardous waste (a list of which appears at 40 CFR §261.33(e)) or any container with more than one inch of any other hazardous waste, as that term is defined at 40 CFR §261.3.

2. Respondent shall immediately ensure that all manifests accompanying the shipment of hazardous waste from the facility contain all the information required by 40 CFR §262.21.

3. Respondent shall file with EPA, as required by 40 CFR §262.42(b), an Exception Report for any hazardous waste shipments for which no completed manifest is returned from a permitted hazardous waste treatment, storage, or disposal facility and received by Respondent within 45 days after the wastes are accepted by a transporter.

4. Respondent shall by no later than ten (10) days after the effective date of the Order submit to EPA Region II a complete Part A of a hazardous waste permit application pursuant to 40 CFR Part 122.

5. Respondent shall by no later than forty-five (45) days after the effective date of the Order comply with all applicable interim status standards contained in 40 CFR Part 265 (except for Subpart H at which Financial Requirements are set forth) or the equivalent New Jersey regulations.

6. Respondent shall by no later than sixty (60) days after the effective date of this Order, comply with the applicable financial requirements set forth at 40 CFR 265.140 to 265.151 (which regulations are contained in Subpart H of 40 CFR Part 265) or the equivalent New Jersey regulations.

7. Sixty days after the effective date of this Order and thereafter, Respondent shall only generate hazardous waste and shall not treat hazardous waste in the sludge incinerator unless Respondent has submitted all required hazardous waste permit applications and is in compliance with all applicable requirements for treatment, storage, or disposal of hazardous waste.

8. Respondent shall, by no later than Seventy(70) days after the effective date of this Order, develop and implement a program approved by the New Jersey Department of Environmental Protection ("DEP") to identify those portions of

Respondent's property contaminated with hazardous waste (with particular attention to the southwest corner of the Respondent's facility near the stream bed). Respondent will have One Hundred Twenty (120) days in which to complete all testing and sampling to be conducted pursuant to said plan. At the completion of said sampling and testing, Respondent will have an additional Ninety (90) days in which to provide a report to DEP containing its findings and proposing a remediation program. Thereafter, Respondent is to implement the program required by DEP to decontaminate, control, contain, neutralize and/or remove (as determined by DEP) any contamination identified through the aforesaid sampling and testing.

Respondent shall pay by cashier's or certified checks a civil penalty for the violations cited herein in the amount of twenty-nine thousand dollars (\$29,000.00) payable to the Treasurer, United States of America. This penalty shall be paid in seven installments, which will be due before the dates set forth in the following schedule:

- By December 10, 1983, Respondent shall have paid six thousand dollars (\$6,000.00)
- By February 1, 1984, Respondent shall have paid a total of ten thousand dollars (\$10,000.00)
- By April 1, 1984, Respondent shall have paid a total of fourteen thousand dollars (\$14,000.00)
- By June 1, 1984, Respondent shall have paid a total of eighteen thousand dollars (\$18,000.00)

- By August 1, 1984, Respondent shall have paid a total of twenty-two thousand dollars (\$22,000.00)
- By October 1, 1984, Respondent shall have paid a total of twenty-six thousand dollars (\$26,000.00)
- By December 1, 1984, Respondent shall have paid a total of twenty-nine thousand dollars (\$29,000.00)

Each payment shall be remitted to the Regional Hearing Clerk, EPA, Region II, 26 Federal Plaza, New York, New York 10278. Failure to remit on schedule payment in full will result in the referral of this matter to the United States Attorney for collection of any unpaid portion of the penalty, plus interest and expense.

The provisions of this Order shall apply to and be binding upon the parties to this action, their officers, directors, agents, servants, employees, successors, and assigns in their official capacities.



SO ORDERED, EFFECTIVE DECEMBER 1, 1983.

CONSENT

Respondent has read the foregoing Order, believes it to be reasonable, and consents to its issuance and to its terms. Respondent does this without making any admission of liability or having an adjudication of any issue of fact or law. In its Answer, Respondent denied the factual allegations in the Complaint, but pursuant to the requirements of 40 CFR §22.18, Respondent neither admits nor denies those allegations here. Respondent explicitly waives its right to request a hearing on this Order, and agrees to pay the penalty amount and to perform the steps called for in this Order.

RESPONDENT:

BY:



 PARTNER

 CENTRAL STEEL DRUM COMPANY,
 PARTNER

DATE:

10-13-83

COMPLAINANT:


BY:


 WARREN H. LLEWELLYN
 Acting Regional Counsel
 Office of Regional Counsel
 U.S. Environmental Protection Agency
 Region II

DATE:

11/22/83

The Regional Administrator of EPA, Region II concurs in the above-cited findings. The foregoing Order as agreed upon by the parties is hereby approved and issued, effective immediately.


 JACQUELINE E. SCHAFER
 Regional Administrator
 U.S. Environmental Protection Agency
 Region II
 26 Federal Plaza
 New York, New York 10278

DATE:

11/25/83

AMENDMENTS TO THE COMPLAINT, COMPLIANCE ORDER, AND NOTICE OF
OPPORTUNITY FOR HEARING PREVIOUSLY ISSUED TO CENTRAL STEEL DRUM

I. Add to the End of "Complaint" Section at the Bottom of Page 4) the
Following Paragraphs:

22. On or about February 3, 1982, June 24, 1982, January 24, 1983 and February 2, 1983 inspections of the facility were conducted pursuant to Section 3007 of the Act, 42 U.S.C. §6927. Said inspections were conducted for the purpose of enforcing regulations for hazardous waste management.

23. The above-referenced inspections revealed that Respondent's facility was being used for the generation, treatment, storage and disposal of hazardous waste.

24. 40 CFR Part 265 sets standards for all hazardous waste treatment, storage and disposal facilities. These standards apply until final administrative disposition of permit applications submitted by owners and operators of facilities has been made. No such final disposition has been made with respect to the company's facility, and thus the standards of Part 265 apply to that facility.

25. 40 CFR §265.143 (amended on April 7, 1982) requires that by the effective date of the regulation (July 6, 1982) an owner or operator of a hazardous waste facility must establish financial assurance for closure of the facility, as well as, where appropriate, post-closure monitoring. As of February 1, 1983, information available to EPA indicated that the company's facility had not submitted the documents necessary to comply with this requirement. Respondent was therefore in violation of 40 CFR §265.143.

26. 40 CFR 265.147 (amended on April 17, 1982) requires that by the effective date of the regulation (July 17, 1982) an owner or operator of a hazardous waste facility must establish financial responsibility for bodily injury and property damage to third parties caused by sudden accidental occurrences arising from operations of the facility. As of February 1, 1983 information available to EPA indicated that the company's facility had not submitted the documents necessary to establish compliance with the liability insurance requirement. Respondent was therefore in violation of 40 CFR §265.147.

27. 40 CFR §262.34 states that a generator may accumulate hazardous waste on-site for 90 days or less provided that the waste is placed in containers and the generator complies with Subpart I of 40 CFR Part 265 and the requirements for owners or operators in Subparts C and D in 40 CFR Part 265.

28. 40 CFR §265.31 (contained in Subpart C of 40 CFR Part 265) states that facilities must be maintained and operated in a manner designed to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to

air, soil, or surface water which could threaten human health or the environment. At the time of the above-referenced February 3, 1982, June 24, 1982 and January 24, 1983 inspections, EPA learned that Respondent had not been operating the facility so as to minimize the possibility of an explosion or an unplanned release of hazardous waste onto the soil and into the surface water at or near Respondent's property.

29. 40 CFR 265.173 (contained in Subpart I of 40 CFR Part 265) requires that containers holding hazardous waste remain closed during storage except when it is necessary to add or remove waste. At the above-referenced June 24, 1982 and January 24, 1983 inspections, the rolloff containing hazardous waste was not closed even though waste was not then being added or removed by Respondent from those containers.

30. Upon the basis of the factual allegations and law cited in the preceding three paragraphs, Complainant makes the following pleading in the alternative:

- (A) If, as Complainant alleges, Respondent is determined to be engaged in the treatment, storage, or disposal of hazardous waste, then Respondent has violated 40 CFR 265.31 and 40 CFR 265.173.
- (B) If Respondent is determined to be solely a generator of hazardous waste, then Respondent has not complied with 40 CFR 265.31 and 40 CFR 265.173 and was in violation of 40 CFR 262.34.

II. Increase the Total Penalty in the "Proposed Civil Penalty" Section (on Page 5) to \$68,300.00 and Add the Following Penalties as Individual Penalty Lines:

- For the violation of 40 CFR 265.143: \$4,000.00
- For the violation of 40 CFR 265.147: \$4,000.00
- For the violations of 40 CFR 265.31
OR
40 CFR 262.34: \$15,000.00
- For the violations of 40 CFR 265.173
OR
40 CFR 262.34: \$6,500.00

III. Add to the "Compliance Order" Section (at the Top of Page 7) the Following Paragraphs:

15. Respondent shall within forty-five (45) days of the effective date of this Compliance Order, submit to EPA documents sufficient to establish financial assurance for closure and accidental occurrences as required by 40 CFR §265.143 and 40 CFR §265.147.

16. Respondent shall, by no later than sixty (60) days after the date of this Compliance Order, present to EPA a suggested program for determining whether surface water contamination has occurred. Upon approval of that program by EPA, Respondent shall, within thirty days, implement that program. The findings shall be reported to EPA no later than one hundred twenty (120) days after the effective date of this Order.

VINCENT J. DOTOLI, ESQ., P.A.
Int. 287 & McKinley Street
Post Office Box 196
South Plainfield, New Jersey 07080
(201) 561-5500
Attorney for Defendant

In the Matter of	:	UNITED STATES ENVIRONMENTAL PROTECTION
CENTRAL STEEL DRUM, INC.	:	REGION II
NJD011482577	:	DOCKET NO. II RCRA-82-0112
	:	
Respondent.	:	ANSWER TO AMENDED COMPLAINT
Proceeding Under Section 3008	:	
of the Solid Waste Disposal	:	
Act, as amended.	:	

By way of Answer to the Amendment to the Complaint,
Compliance Order, and Notice of Opportunity for Hearing,
Respondent, Central Steel Drum sets forth the following:

1. The Respondent neither admits nor denies the
allegations set forth by the Complainant in Paragraph Twenty-
two of its Amended Complaint but rather leaves the Complainant
to its proofs.

2. The Respondent denies the allegations made by the
Complainant in Paragraph Twenty-three of its Amended
Complaint. Respondent's facility does not treat, store
and dispose of hazardous waste.

3. The Respondent denies the allegation set forth by

the Complainant in Paragraph Twenty-four, of its Amended Complaint. The Respondent does not treat, store and dispose of hazardous waste at its facility and thus it does not require a permit to treat hazardous waste nor do the standards for treating, disposing or storing hazardous waste apply to Respondent's facility.

4. Respondent denies the allegations set forth in Paragraph Twenty-five and Paragraph Twenty-six of the Amended Complaint. Respondent does not treat, store or dispose of hazardous waste at its facility and thus 40 CFR 265.143 and 40 CFR 265.147 do not apply to Respondent.

5. Respondent neither admits nor denies the allegations set forth in Paragraph Twenty-seven of the Amended Complaint but rather leaves Complainant to its proofs.

6. Respondent denies the allegations set forth in Paragraph Twenty-eight of the Amended Complaint. Respondent had been operating the facility so as to minimize the possibility of an explosion or unplanned release of hazardous waste onto the soil and into the surface water at or near Respondent's property.

7. Respondent denies the allegations set forth in Paragraph Twenty-nine of the Amended Complaint.

8. In response to the allegations contained in Paragraph Thirty of the Amended Complaint, Respondent denies that it

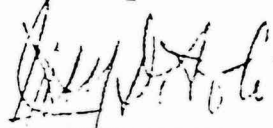
has violated 40 CFR 265.31, 40 CFR 265.173 and 40 CFR 262.34.

9. The Respondent hereby objects to and takes issue with the proposed penalties as set forth in Paragraph II of the Amended Complaint and does so for all of the reasons set forth above.

8. The Respondent hereby requests a public hearing in order to contest, refute and deny all of the allegations set forth in said Amended Complaint.

9. Respondent also hereby requests an additional conference in order to attempt to amicably settle the within matter, to discuss the charges and provide additional information which Respondent believes is relevant.

Respectfully submitted,



VINCENT J. DOTOLI, ESQ.,
Attorney for CENTRAL STEEL DRUM, INC.

DATED: June 27, 1983

3007 of the Act, 42 U.S.C. §6927. Said inspections were conducted for the purpose of enforcing the EPA regulations for hazardous waste management, 40 CFR Parts 260 through 265 (published in 45 Fed. Reg. 33063 et seq., May 19, 1980 and as subsequently amended), promulgated pursuant to Subtitle C of the Act, 42 U.S.C. §6921 et seq.

4. The above-referenced inspections revealed that Respondent's facility was being used for the generation, treatment, storage and disposal of hazardous waste.

5. Section 3005(a) of the Act, 42 U.S.C. 6925(a) prohibits the treatment of hazardous waste without a hazardous waste permit. EPA has determined that sludge being treated in an incinerator by the Respondent is hazardous waste and that Respondent has not received a hazardous waste permit. Respondent is, therefore, in violation of Section 3005(a) of the Act.

6. Section 3005(a) of the Act, 42 U.S.C. §6925(a), prohibits the disposal of hazardous waste without a hazardous waste permit. At the time of the above-referenced December 7, 1981 and December 28, 1981 inspections, Respondent was disposing of hazardous sludge and ash on the ground without having received a hazardous waste permit. Respondent was, therefore, in violation of Section 3005(a) of the Act.

7. Section 3005(a) of the Act, 42 U.S.C. §6925(a), prohibits the storage of hazardous waste without a hazardous waste permit. At the time of the above-referenced December 7, 1981 and December 28, 1981 inspections, Respondent was storing ash in a pile without having received a hazardous waste permit even though analysis by others had determined the ash to be hazardous. Respondent was, therefore, in violation of Section 3005(a) of the Act.

8. 40 CFR Part 262 sets standards for all generators of hazardous waste.

9. 40 CFR 262.11 requires that a person who generates a solid waste must determine if that waste is hazardous using the methods set forth in that section. While separate analyses were ultimately completed, Respondent had never made, as of December 7, 1981, the required determination for the ash generated at its facility and was, therefore, in violation of 40 CFR 262.11.

10. 40 CFR 262.40(c) requires that a generator keep records of any test results, waste analyses or other determinations made in accordance with 40 CFR 262.11 for at least three years. At the time of the above-referenced December 7, 1981 and December 28, 1981 inspections Respondent had no such records and was, therefore, in violation of 40 CFR 262.40(c).

11. 40 CFR 262.21(a) requires that manifests accompanying the shipment of hazardous waste shall contain an accurate description of the waste. During the above-referenced December 7, 1981 inspection, EPA determined that Respondent had failed to indicate in its manifests that the waste ash shipped by Respondent was hazardous. Respondent was, therefore, in violation of 40 CFR 262.21(a)

12. 40 CFR 262.42(b) requires that a generator file an Exception Report with EPA if he has not received within 45 days a copy of a manifest with the signature of the owner or operator of the facility to which hazardous waste has been shipped by the generator. The signed copy shows receipt of the hazardous waste by the treatment, storage, or disposal facility. During the above-referenced December 7, 1981 inspection EPA officials did not find that Respondent had available signed copies of manifests for the shipment of hazardous waste within 45 days of the date the waste was accepted from the Respondent by the initial transporter. Respondent had never filed Exception Reports with EPA and was, therefore, in violation of 40 CFR 262.42(b).

13. 40 CFR Part 265 sets standards for all hazardous waste treatment, storage and disposal facilities. These standards apply until a final administrative disposition on a permit application has been made with respect to a company's facility. No such disposition has been made with respect to Respondent's facility, and, therefore, the standards of Part 265 apply to that facility.

14. 40 CFR 265.13 requires that prior to treating, storing, or disposing of any hazardous waste, an owner or operator of a facility must obtain a detailed chemical and physical analysis of a representative sample of the waste. During the above-referenced December 7, 1981 and December 28, 1981 inspections, EPA officials found that containers with hazardous waste had been received by Respondent's facility, yet Respondent did not obtain an analysis of samples of the waste prior to treating, storing, or disposing of it. Respondent was, therefore, in violation of 40 CFR 265.13.

15. 40 CFR 265.35 requires that the owner or operator of any hazardous waste treatment, storage, or disposal facility must maintain aisle space adequate to allow the unobstructed movement of personnel and emergency equipment to any area of the facility operation. At the time of both of the above-referenced inspections, Respondent had stored drums in a manner that did not provide aisle space sufficient to allow unobstructed access by personnel and emergency equipment to the drum processing device and sludge burning incinerator. Respondent was, therefore, in violation of 40 CFR 265.35.

16. 40 CFR 265.31 requires that the owner or operator of a hazardous waste treatment, storage, or disposal facility must maintain and operate

that facility to minimize the possibility of a fire, explosion, or release of hazardous waste to the air, soil, or surface water. At the time of the above-referenced December 7, 1981 inspection, the Respondent was placing drums with hazardous waste in the drum processing incinerator without minimizing the possible release of hazardous waste into the air. At the time of the above-referenced December 7, 1981 and December 28, 1981 inspections, hazardous waste had spilled onto the ground, thereby threatening the release of hazardous waste into soils and surface waters. Respondent was, therefore, on both these dates in violation of 40 CFR 265.31.

17. 40 CFR §265.173(a) requires that containers holding hazardous waste remain closed during storage, except when it is necessary to add or remove waste. At the time of the above-referenced December 7, 1981 inspection, containers containing ignitable waste were not closed, even though waste was not then being added or removed from those containers. Respondent was, therefore, in violation of 40 CFR 265.173(a).

18. 40 CFR 265.251 requires the owner or operator of a facility that treats or stores hazardous waste in a pile to cover or otherwise manage the pile so that wind dispersal is controlled. During the above-referenced December 7, 1981 and December 28, 1981 inspections, Respondent had not protected from wind dispersal, by cover or other means, a pile of ash constituting hazardous waste. Respondent was, therefore, in violation of 40 CFR 265.251.

19. 40 CFR 265.253 requires that where the leachate or run-off from a pile constitutes a hazardous waste, the owner or operator must protect the pile from precipitation and run-on. At the time of both of the above-referenced inspections, while the ash pile was allegedly located on a concrete slab, Respondent had not protected the waste ash pile from precipitation and run-on, as required, and was therefore, in violation of 40 CFR 265.253.

20. 40 CFR 265.347 requires that the owner or operator of a facility that treats hazardous waste in an incinerator must immediately make appropriate corrections necessary to maintain steady state combustion conditions. Respondent treats hazardous waste in its sludge burning incinerator, yet Respondent failed to maintain steady state conditions during combustion in that incinerator. Respondent is, therefore, in violation of 40 CFR 265.347.

21. 40 CFR 265.377 requires that owners or operators of facilities that thermally treat hazardous waste in devices other than incinerators conduct monitoring and inspections, and immediately make necessary corrections to maintain steady state conditions, when those owners or operators are thermally treating hazardous waste. Respondent thermally treats hazardous waste in its drum processing device, yet no monitoring, inspection and corrections were carried out. Respondent was, therefore, in violation of 40 CFR 265.377.

PROPOSED CIVIL PENALTY

In view of the above-cited violations, and pursuant to the authority of Section 3008 of the Act, Complainant herewith proposes the assessment of a civil penalty in the amount of thirty-eight thousand and eight hundred dollars (\$38,800.00) against Central Steel Drum Company for the violations specified hereinabove. This penalty is broken down as follows:

For the violations of 42 U.S.C. 6925(a) :	\$10,000.00
For the violation of 40 CFR 262.11 :	\$ 500.00
For the violation of 40 CFR 262.40(c) :	\$ 300.00
For the violation of 40 CFR 262.21(a) :	\$ 2,000.00
For the violation of 40 CFR 262.42(b) :	\$ 500.00
For the violation of 40 CFR 265.13 :	\$ 3,000.00
For the violation of 40 CFR 265.35 :	\$ 3,000.00
For the violation of 40 CFR 265.31 :	\$ 6,500.00
For the violation of 40 CFR 265.173 :	\$ 500.00
For the violation of 40 CFR 265.251 :	\$ 4,000.00
For the violation of 40 CFR 265.253 :	\$ 3,000.00
For the violation of 40 CFR 265.347 :	\$ 4,000.00
For the violation of 40 CFR 265.377 :	<u>\$ 1,500.00</u>

TOTAL : \$38,800.00

COMPLIANCE ORDER

Based upon the foregoing, and pursuant to the authority of Section 3008 of the Act, Complainant herewith issues the following Compliance Order against Respondent herein:

1. Respondent shall, by no later than two (2) days after the date of this Compliance Order, insure that, in accordance with 40 CFR 265.173, all containers at its facility containing hazardous waste are closed at all times during storage.
2. Respondent shall, by no later than five (5) days after the date of this Compliance Order, rearrange its drum storage area in such a manner that adequate aisle space is provided for the movement of facility personnel and equipment in accordance with 40 CFR 265.35.
3. Respondent shall, by no later than twenty (20) days after the date of this Compliance Order, cover or otherwise manage the waste ash pile at its facility to control wind dispersal, pursuant to 40 CFR 265.251.

4. Respondent shall, by no later than twenty (20) days after the date of this Compliance Order, protect the waste ash pile from precipitation and runoff, as required by 40 CFR 265.253.

5. Respondent shall immediately cease disposal of hazardous waste at its facility or in any other unauthorized manner.

6. Respondent shall by no later than sixty (60) days after the effective date of this Order, cease to treat or store any hazardous waste at the facility. Continued operation of the site as a hazardous waste facility shall thereafter be contingent upon submission of a complete Part A of a hazardous waste permit application pursuant to 40 CFR Part 122, issuance of an "Interim Status Compliance Order" from EPA Region II and upon the company's compliance with interim status standards contained in 40 CFR Part 265.

7. Respondent shall immediately, prior to treating or storing any hazardous waste, obtain analysis of samples that are representative of any type of waste being treated or stored at the facility, pursuant to the requirements of 40 CFR 265.13. Records of such analyses shall be maintained at the facility to allow inspection by government officials.

8. Respondent shall immediately insure that all manifests accompanying the shipment of hazardous waste to and from the facility contain all the information required by 40 CFR 262.21 including an accurate description of the hazardous nature of any waste shipped.

9. Respondent shall file with EPA, as required by 40 CFR 262.42(b), an Exception Report for any hazardous waste shipments for which no completed manifest is returned from a permitted hazardous waste treatment, storage, or disposal facility and received by Respondent within 45 days after the wastes are accepted by a transporter.

10. Respondent shall, by no later than thirty (30) days after the date of this Compliance Order, identify and remove all topsoil contaminated with hazardous waste, in accordance with the provisions of the Act and the regulations promulgated thereunder.

11. Respondent shall, by no later than sixty (60) days after the date of this Compliance Order, present to EPA a suggested program (similar to that outlined in 40 CFR 265.91) for determining whether groundwater contamination has occurred. Upon approval of that program by EPA, Respondent shall, within thirty days, commence and, within ninety days, implement that program. The findings shall be immediately reported to EPA.

12. Respondent shall immediately take all necessary steps to minimize the possibility of a fire, explosion or release of hazardous waste or hazardous waste constituents, as required by 40 CFR 265.31.

13. Respondent shall immediately take steps to comply with all applicable requirements set forth at 40 CFR Part 265, Subpart O and Subpart P concerning the incineration and thermal treatment of hazardous waste. Such incineration and thermal treatment shall cease within 60 days of the effective date of this Order unless the conditions outlined in paragraph six of this Compliance Order have been met.

14. Respondent shall, within 60 days of the date of this Compliance Order, comply with all other applicable provisions of the Act and regulations promulgated thereunder.

NOTICE OF LIABILITY FOR ADDITIONAL CIVIL PENALTIES

Pursuant to the terms of Section 3008(a)(3) of the Act, a violator failing to take corrective action within the time specified in a Final Compliance Order is liable for a civil penalty of up to \$25,000 for each day of continued noncompliance. Such continued noncompliance may also result in suspension or revocation of any permits issued to the violator pursuant to the authority of the Act.

NOTICE OF OPPORTUNITY TO REQUEST A HEARING

As provided in Section 3008(b) of the Act, and in accordance with EPA's Consolidated Rules of Practices Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits, 40 CFR Part 22, 45 Fed. Reg. 24360 (April 9, 1980) (a copy of which accompanies this Complaint, Compliance Order, and Notice of Opportunity for Hearing), you have the right to request a hearing to contest any material fact set out in the Complaint, or to contest the appropriateness of the proposed penalty, or the terms of the Compliance Order. (Consistent with the provisions of Section 3008(b) of the Act, the hearing provided will be noticed and open to the general public, should you specifically request such a public hearing. In the absence of such a specific request, however, public notice of a scheduled hearing will not be published.)

To avoid being found in default, and having the proposed civil penalty assessed and the Compliance Order confirmed without further proceedings, you must file a written answer to the Complaint, which may include a request for a hearing. Your answer (if any) must be addressed to the Regional Hearing Clerk, U.S. Environmental Protection Agency, Region II, 26 Federal Plaza, New York, New York, 10278, and must be filed within thirty (30) days of your receipt of this Complaint, Compliance Order, and Notice of Opportunity for Hearing. Your answer must clearly and directly admit, deny or explain each of the fac-

tual allegations contained in the Complaint, and should contain (1) a clear statement of the facts which constitute the grounds of your defense, and (2) a concise statement of the contentions which you intend to place in issue at the hearing.

The denial of any material fact, or the raising of any affirmative defense, will be construed as a request for a hearing. Failure to deny any of the factual allegations in the Complaint will be deemed to constitute an admission of the undenied allegations. Your failure to file a written answer within thirty (30) days of receipt of this instrument will be deemed to represent your admission of all facts alleged in the Complaint, and a waiver of your right to a formal hearing to contest any of the facts alleged by the Complainant. Your default will result in the final issuance of the Compliance Order, and assessment of the proposed civil penalty, without further proceedings.

INFORMAL SETTLEMENT CONFERENCE

Whether or not you request a hearing, the EPA encourages settlement of this proceeding consistent with the provisions of the Act. At an informal conference with a representative of the Complainant you may comment on the charges and provide whatever additional information you feel is relevant to the disposition of this matter, including any actions you have taken to correct the violation, and any other special circumstances you care to raise. The Complainant has the authority to modify the amount of the proposed penalty, where appropriate, to reflect any settlement agreement reached with you in such conference, or to recommend that any or all of the charges be dismissed, if the circumstances so warrant. Your request for an informal conference and other questions that you may have regarding this Complaint, Compliance Order, and Notice of Opportunity for Hearing should be directed to William K. Sawyer, Attorney, General Enforcement Branch, U.S. Environmental Protection Agency, Region II, 26 Federal Plaza, New York, New York, 10278, telephone (212) 264-4472.

Please note that a request for an informal settlement conference does not extend the thirty (30) day period during which a written answer and request for a hearing must be submitted. The informal conference procedure may be pursued as an alternative to or simultaneously with the adjudicatory hearing procedure. However, no penalty reduction will be made simply because such a conference is held. Any settlement which may be reached as a result of such conference will be embodied in a written Consent Agreement and Final Compliance Order to be issued by the Regional Administrator of EPA, Region II, and signed by you or your representative. Your signing of such Consent Agreement would constitute a waiver of your right to request a hearing on any matter stipulated to therein.

RESOLUTION OF THIS PROCEEDING WITHOUT HEARING OR CONFERENCE

Instead of filing an answer requesting a hearing or requesting an informal settlement conference, you may choose to comply with the terms of the Compliance

Order, and to pay the proposed penalty. In that case, payment should be made by sending to the Regional Hearing Clerk, EPA, Region II, a cashier's or certified check in the amount of the penalty specified in the "Proposed Civil Penalty" section of this instrument. Your check must be made payable to the United States of America.

DATED: New York, New York

March 19, 1982

COMPLAINANT:

Michael P. Bonchonsky

MICHAEL P. BONCHONSKY

Acting Director

Enforcement Division

U.S. Environmental Protection Agency
Region II

26 Federal Plaza

New York, New York 10278

TO: Vincent J. Dotoli, Esq.
Lawyer Representing Central Steel Drum
Interstate 287 and McKinley Street
P.O. Box 196
South Plainfield, New Jersey 07080

cc: Jerry Burke
Office of Enforcement
New Jersey Department of
Environmental Protection

bcc: John Walsh, NJDEP
Charles Bazydlo, Newark Dept. of
Engineering
Angela Morales, 2ES-SM
Tom Taccone, 2PM-PA
Richard Mays (WH-527)
Alphonse Iannuzzi, NJDEP
John Witkowski, 2ES-SM

CERTIFICATE OF SERVICE

This is to certify that on the *24th* day of *March*, 1982 I served a true and correct copy of the foregoing Complaint by certified mail to Vincent J. Dotoli, Esq., Lawyer Representing Central Steel Drum, Interstate 287 and McKinley Street, P.O. 196, South Plainfield, New Jersey 07080. I handcarried the original foregoing Complaint to the Regional Hearing Clerk.

Ellen P. Palmisano

ELLEN P. PALMISANO

Clerk Stenographer

T. TACCONE

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION II

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In the Matter of :
:
:
CENTRAL STEEL DRUM COMPANY :
NJDO11482577 :
:
:
Respondent. :
:
:
Proceeding Under Section 3008 of the :
Solid Waste Disposal Act, as amended. :
:
:
-----X

COMPLAINT, COMPLIANCE ORDER,
AND NOTICE OF OPPORTUNITY
FOR HEARING

Docket No. II RCRA-82-0112

COMPLAINT

This administrative proceeding is instituted pursuant to Section 3008 of the Solid Waste Disposal Act, as amended, 42 U.S.C. §6901 et seq. ("the Act"). [Note: Among the statutes amending the Act is the Resource Conservation and Recovery Act, 90 Stat. 2795, P.L. 94-580 (1976).]

The Director of the Enforcement Division of the U.S. Environmental Protection Agency ("EPA"), Region II, Complainant in this proceeding, has determined that Respondent, Central Steel Drum Company has violated Sections 3002 and 3004 of the Act, 42 U.S.C. 6924, and the regulations promulgated thereunder, as hereinafter specified:

1. Respondent owns and operates a facility located at 704 Doremus Avenue, Newark, New Jersey ("the facility").
2. Respondent informed EPA, pursuant to Section 3010 of the Act, that it conducts activities at the facility involving "hazardous waste," as that term is defined in Section 1004(5) of the Act, 42 U.S.C. §6904(5) and in 40 CFR §261.3. Respondent did not submit Part A of a hazardous waste permit application pursuant to 40 CFR 122.22.
3. On December 7, 1981 and December 28, 1981 inspections of the facility were conducted by duly-designated representatives of EPA pursuant to Section

3007 of the Act, 42 U.S.C. §6927. Said inspections were conducted for the purpose of enforcing the EPA regulations for hazardous waste management, 40 CFR Parts 260 through 265 (published in 45 Fed. Reg. 33063 et seq., May 19, 1980 and as subsequently amended), promulgated pursuant to Subtitle C of the Act, 42 U.S.C. §6921 et seq.

4. The above-referenced inspections revealed that Respondent's facility was being used for the generation, treatment, storage and disposal of hazardous waste.

5. Section 3005(a) of the Act, 42 U.S.C. 6925(a) prohibits the treatment of hazardous waste without a hazardous waste permit. EPA has determined that sludge being treated in an incinerator by the Respondent is hazardous waste and that Respondent has not received a hazardous waste permit. Respondent is, therefore, in violation of Section 3005(a) of the Act.

6. Section 3005(a) of the Act, 42 U.S.C. §6925(a), prohibits the disposal of hazardous waste without a hazardous waste permit. At the time of the above-referenced December 7, 1981 and December 28, 1981 inspections, Respondent was disposing of hazardous sludge and ash on the ground without having received a hazardous waste permit. Respondent was, therefore, in violation of Section 3005(a) of the Act.

7. Section 3005(a) of the Act, 42 U.S.C. §6925(a), prohibits the storage of hazardous waste without a hazardous waste permit. At the time of the above-referenced December 7, 1981 and December 28, 1981 inspections, Respondent was storing ash in a pile without having received a hazardous waste permit even though analysis by others had determined the ash to be hazardous. Respondent was, therefore, in violation of Section 3005(a) of the Act.

8. 40 CFR Part 262 sets standards for all generators of hazardous waste.

9. 40 CFR 262.11 requires that a person who generates a solid waste must determine if that waste is hazardous using the methods set forth in that section. While separate analyses were ultimately completed, Respondent had never made, as of December 7, 1981, the required determination for the ash generated at its facility and was, therefore, in violation of 40 CFR 262.11.

10. 40 CFR 262.40(c) requires that a generator keep records of any test results, waste analyses or other determinations made in accordance with 40 CFR 262.11 for at least three years. At the time of the above-referenced December 7, 1981 and December 28, 1981 inspections Respondent had no such records and was, therefore, in violation of 40 CFR 262.40(c).

11. 40 CFR 262.21(a) requires that manifests accompanying the shipment of hazardous waste shall contain an accurate description of the waste. During the above-referenced December 7, 1981 inspection, EPA determined that Respondent had failed to indicate in its manifests that the waste ash shipped by Respondent was hazardous. Respondent was, therefore, in violation of 40 CFR 262.21(a)

12. 40 CFR 262.42(b) requires that a generator file an Exception Report with EPA if he has not received within 45 days a copy of a manifest with the signature of the owner or operator of the facility to which hazardous waste has been shipped by the generator. The signed copy shows receipt of the hazardous waste by the treatment, storage, or disposal facility. During the above-referenced December 7, 1981 inspection EPA officials did not find that Respondent had available signed copies of manifests for the shipment of hazardous waste within 45 days of the date the waste was accepted from the Respondent by the initial transporter. Respondent had never filed Exception Reports with EPA and was, therefore, in violation of 40 CFR 262.42(b).

13. 40 CFR Part 265 sets standards for all hazardous waste treatment, storage and disposal facilities. These standards apply until a final administrative disposition on a permit application has been made with respect to a company's facility. No such disposition has been made with respect to Respondent's facility, and, therefore, the standards of Part 265 apply to that facility.

14. 40 CFR 265.13 requires that prior to treating, storing, or disposing of any hazardous waste, an owner or operator of a facility must obtain a detailed chemical and physical analysis of a representative sample of the waste. During the above-referenced December 7, 1981 and December 28, 1981 inspections, EPA officials found that containers with hazardous waste had been received by Respondent's facility, yet Respondent did not obtain an analysis of samples of the waste prior to treating, storing, or disposing of it. Respondent was, therefore, in violation of 40 CFR 265.13.

15. 40 CFR 265.35 requires that the owner or operator of any hazardous waste treatment, storage, or disposal facility must maintain aisle space adequate to allow the unobstructed movement of personnel and emergency equipment to any area of the facility operation. At the time of both of the above-referenced inspections, Respondent had stored drums in a manner that did not provide aisle space sufficient to allow unobstructed access by personnel and emergency equipment to the drum processing device and sludge burning incinerator. Respondent was, therefore, in violation of 40 CFR 265.35.

16. 40 CFR 265.31 requires that the owner or operator of a hazardous waste treatment, storage, or disposal facility must maintain and operate

that facility to minimize the possibility of a fire, explosion, or release of hazardous waste to the air, soil, or surface water. At the time of the above-referenced December 7, 1981 inspection, the Respondent was placing drums with hazardous waste in the drum processing incinerator without minimizing the possible release of hazardous waste into the air. At the time of the above-referenced December 7, 1981 and December 28, 1981 inspections, hazardous waste had spilled onto the ground, thereby threatening the release of hazardous waste into soils and surface waters. Respondent was, therefore, on both these dates in violation of 40 CFR 265.31.

17. 40 CFR §265.173(a) requires that containers holding hazardous waste remain closed during storage, except when it is necessary to add or remove waste. At the time of the above-referenced December 7, 1981 inspection, containers containing ignitable waste were not closed, even though waste was not then being added or removed from those containers. Respondent was, therefore, in violation of 40 CFR 265.173(a).

18. 40 CFR 265.251 requires the owner or operator of a facility that treats or stores hazardous waste in a pile to cover or otherwise manage the pile so that wind dispersal is controlled. During the above-referenced December 7, 1981 and December 28, 1981 inspections, Respondent had not protected from wind dispersal, by cover or other means, a pile of ash constituting hazardous waste. Respondent was, therefore, in violation of 40 CFR 265.251.

19. 40 CFR 265.253 requires that where the leachate or run-off from a pile constitutes a hazardous waste, the owner or operator must protect the pile from precipitation and run-on. At the time of both of the above-referenced inspections, while the ash pile was allegedly located on a concrete slab, Respondent had not protected the waste ash pile from precipitation and run-on, as required, and was therefore, in violation of 40 CFR 265.253.

20. 40 CFR 265.347 requires that the owner or operator of a facility that treats hazardous waste in an incinerator must immediately make appropriate corrections necessary to maintain steady state combustion conditions. Respondent treats hazardous waste in its sludge burning incinerator, yet Respondent failed to maintain steady state conditions during combustion in that incinerator. Respondent is, therefore, in violation of 40 CFR 265.347.

21. 40 CFR 265.377 requires that owners or operators of facilities that thermally treat hazardous waste in devices other than incinerators conduct monitoring and inspections, and immediately make necessary corrections to maintain steady state conditions, when those owners or operators are thermally treating hazardous waste. Respondent thermally treats hazardous waste in its drum processing device, yet no monitoring, inspection and corrections were carried out. Respondent was, therefore, in violation of 40 CFR 265.377.

PROPOSED CIVIL PENALTY

In view of the above-cited violations, and pursuant to the authority of Section 3008 of the Act, Complainant herewith proposes the assessment of a civil penalty in the amount of thirty-eight thousand and eight hundred dollars (\$38,800.00) against Central Steel Drum Company for the violations specified hereinabove. This penalty is broken down as follows:

For the violations of 42 U.S.C. 6925(a) :	\$10,000.00
For the violation of 40 CFR 262.11 :	\$ 500.00
For the violation of 40 CFR 262.40(c) :	\$ 300.00
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For the violation of 40 CFR 265.173 :	\$ 500.00
For the violation of 40 CFR 265.251 :	\$ 4,000.00
For the violation of 40 CFR 265.253 :	\$ 3,000.00
For the violation of 40 CFR 265.347 :	\$ 4,000.00
For the violation of 40 CFR 265.377 :	<u>\$ 1,500.00</u>

TOTAL : \$38,800.00

COMPLIANCE ORDER

Based upon the foregoing, and pursuant to the authority of Section 3008 of the Act, Complainant herewith issues the following Compliance Order against Respondent herein:

1. Respondent shall, by no later than two (2) days after the date of this Compliance Order, insure that, in accordance with 40 CFR 265.173, all containers at its facility containing hazardous waste are closed at all times during storage.

2. Respondent shall, by no later than five (5) days after the date of this Compliance Order, rearrange its drum storage area in such a manner that adequate aisle space is provided for the movement of facility personnel and equipment in accordance with 40 CFR 265.35.

3. Respondent shall, by no later than twenty (20) days after the date of this Compliance Order, cover or otherwise manage the waste ash pile at its facility to control wind dispersal, pursuant to 40 CFR 265.251.

4. Respondent shall, by no later than twenty (20) days after the date of this Compliance Order, protect the waste ash pile from precipitation and runoff, as required by 40 CFR 265.253.

5. Respondent shall immediately cease disposal of hazardous waste at its facility or in any other unauthorized manner.

6. Respondent shall by no later than sixty (60) days after the effective date of this Order, cease to treat or store any hazardous waste at the facility. Continued operation of the site as a hazardous waste facility shall thereafter be contingent upon submission of a complete Part A of a hazardous waste permit application pursuant to 40 CFR Part 122, issuance of an "Interim Status Compliance Order" from EPA Region II and upon the company's compliance with interim status standards contained in 40 CFR Part 265.

7. Respondent shall immediately, prior to treating or storing any hazardous waste, obtain analysis of samples that are representative of any type of waste being treated or stored at the facility, pursuant to the requirements of 40 CFR 265.13. Records of such analyses shall be maintained at the facility to allow inspection by government officials.

8. Respondent shall immediately insure that all manifests accompanying the shipment of hazardous waste to and from the facility contain all the information required by 40 CFR 262.21 including an accurate description of the hazardous nature of any waste shipped.

9. Respondent shall file with EPA, as required by 40 CFR 262.42(b), an Exception Report for any hazardous waste shipments for which no completed manifest is returned from a permitted hazardous waste treatment, storage, or disposal facility and received by Respondent within 45 days after the wastes are accepted by a transporter.

10. Respondent shall, by no later than thirty (30) days after the date of this Compliance Order, identify and remove all topsoil contaminated with hazardous waste, in accordance with the provisions of the Act and the regulations promulgated thereunder.

11. Respondent shall, by no later than sixty (60) days after the date of this Compliance Order, present to EPA a suggested program (similar to that outlined in 40 CFR 265.91) for determining whether groundwater contamination has occurred. Upon approval of that program by EPA, Respondent shall, within thirty days, commence and, within ninety days, implement that program. The findings shall be immediately reported to EPA.

12. Respondent shall immediately take all necessary steps to minimize the possibility of a fire, explosion or release of hazardous waste or hazardous waste constituents, as required by 40 CFR 265.31.

13. Respondent shall immediately take steps to comply with all applicable requirements set forth at 40 CFR Part 265, Subpart O and Subpart P concerning the incineration and thermal treatment of hazardous waste. Such incineration and thermal treatment shall cease within 60 days of the effective date of this Order unless the conditions outlined in paragraph six of this Compliance Order have been met.

14. Respondent shall, within 60 days of the date of this Compliance Order, comply with all other applicable provisions of the Act and regulations promulgated thereunder.

NOTICE OF LIABILITY FOR ADDITIONAL CIVIL PENALTIES

Pursuant to the terms of Section 3008(a)(3) of the Act, a violator failing to take corrective action within the time specified in a Final Compliance Order is liable for a civil penalty of up to \$25,000 for each day of continued noncompliance. Such continued noncompliance may also result in suspension or revocation of any permits issued to the violator pursuant to the authority of the Act.

NOTICE OF OPPORTUNITY TO REQUEST A HEARING

As provided in Section 3008(b) of the Act, and in accordance with EPA's Consolidated Rules of Practices Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits, 40 CFR Part 22, 45 Fed. Reg. 24360 (April 9, 1980) (a copy of which accompanies this Complaint, Compliance Order, and Notice of Opportunity for Hearing), you have the right to request a hearing to contest any material fact set out in the Complaint, or to contest the appropriateness of the proposed penalty, or the terms of the Compliance Order. (Consistent with the provisions of Section 3008(b) of the Act, the hearing provided will be noticed and open to the general public, should you specifically request such a public hearing. In the absence of such a specific request, however, public notice of a scheduled hearing will not be published.)

To avoid being found in default, and having the proposed civil penalty assessed and the Compliance Order confirmed without further proceedings, you must file a written answer to the Complaint, which may include a request for a hearing. Your answer (if any) must be addressed to the Regional Hearing Clerk, U.S. Environmental Protection Agency, Region II, 26 Federal Plaza, New York, New York, 10278, and must be filed within thirty (30) days of your receipt of this Complaint, Compliance Order, and Notice of Opportunity for Hearing. Your answer must clearly and directly admit, deny or explain each of the fac-

tual allegations contained in the Complaint, and should contain (1) a clear statement of the facts which constitute the grounds of your defense, and (2) a concise statement of the contentions which you intend to place in issue at the hearing.

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Whether or not you request a hearing, the EPA encourages settlement of this proceeding consistent with the provisions of the Act. At an informal conference with a representative of the Complainant you may comment on the charges and provide whatever additional information you feel is relevant to the disposition of this matter, including any actions you have taken to correct the violation, and any other special circumstances you care to raise. The Complainant has the authority to modify the amount of the proposed penalty, where appropriate, to reflect any settlement agreement reached with you in such conference, or to recommend that any or all of the charges be dismissed, if the circumstances so warrant. Your request for an informal conference and other questions that you may have regarding this Complaint, Compliance Order, and Notice of Opportunity for Hearing should be directed to William K. Sawyer, Attorney, General Enforcement Branch, U.S. Environmental Protection Agency, Region II, 26 Federal Plaza, New York, New York, 10278, telephone (212) 264-4472.

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RESOLUTION OF THIS PROCEEDING WITHOUT HEARING OR CONFERENCE

Instead of filing an answer requesting a hearing or requesting an informal settlement conference, you may choose to comply with the terms of the Compliance

Order, and to pay the proposed penalty. In that case, payment should be made by sending to the Regional Hearing Clerk, EPA, Region II, a cashier's or certified check in the amount of the penalty specified in the "Proposed Civil Penalty" section of this instrument. Your check must be made payable to the United States of America.

DATED: New York, New York

March 19, 1982

COMPLAINANT:

Michael P. Bonchonsky

MICHAEL P. BONCHONSKY

Acting Director

Enforcement Division

U.S. Environmental Protection Agency
Region II

26 Federal Plaza

New York, New York 10278

TO: Vincent J. Dotoli, Esq.
Lawyer Representing Central Steel Drum
Interstate 287 and McKinley Street
P.O. Box 196
South Plainfield, New Jersey 07080

cc: Jerry Burke
Office of Enforcement
New Jersey Department of
Environmental Protection

bcc: John Walsh, NJDEP
Charles Bazydlo, Newark Dept. of
Engineering
Angela Morales, 2ES-SM
Tom Taccone, 2PM-PA
Richard Mays (WH-527)
Alphonse Iannuzzi, NJDEP
John Witkowski, 2ES-SM

CERTIFICATE OF SERVICE

This is to certify that on the *24th* day of *March*, 1982 I served a true and correct copy of the foregoing Complaint by certified mail to Vincent J. Dotoli, Esq., Lawyer Representing Central Steel Drum, Interstate 287 and McKinley Street, P.O. 196, South Plainfield, New Jersey 07080. I handcarried the original foregoing Complaint to the Regional Hearing Clerk.

Ellen P. Palmisano

ELLEN P. PALMISANO
Clerk Stenographer

T. TACCONE

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION II

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In the Matter of	:
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CENTRAL STEEL DRUM COMPANY	:
NJD011482577	:
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Respondent.	:
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	:
Proceeding Under Section 3008 of the	:
Solid Waste Disposal Act, as amended.	:
	:
	:
-----X	

COMPLAINT, COMPLIANCE ORDER,
AND NOTICE OF OPPORTUNITY
FOR HEARING

Docket No. II RCRA-82-0112

COMPLAINT

This administrative proceeding is instituted pursuant to Section 3008 of the Solid Waste Disposal Act, as amended, 42 U.S.C. §6901 et seq. ("the Act"). [Note: Among the statutes amending the Act is the Resource Conservation and Recovery Act, 90 Stat. 2795, P.L. 94-580 (1976).]

The Director of the Enforcement Division of the U.S. Environmental Protection Agency ("EPA"), Region II, Complainant in this proceeding, has determined that Respondent, Central Steel Drum Company has violated Sections 3002 and 3004 of the Act, 42 U.S.C. 6924, and the regulations promulgated thereunder, as hereinafter specified:

1. Respondent owns and operates a facility located at 704 Doremus Avenue, Newark, New Jersey ("the facility").
2. Respondent informed EPA, pursuant to Section 3010 of the Act, that it conducts activities at the facility involving "hazardous waste," as that term is defined in Section 1004(5) of the Act, 42 U.S.C. §6904(5) and in 40 CFR §261.3. Respondent did not submit Part A of a hazardous waste permit application pursuant to 40 CFR 122.22.
3. On December 7, 1981 and December 28, 1981 inspections of the facility were conducted by duly-designated representatives of EPA pursuant to Section

3007 of the Act, 42 U.S.C. §6927. Said inspections were conducted for the purpose of enforcing the EPA regulations for hazardous waste management, 40 CFR Parts 260 through 265 (published in 45 Fed. Reg. 33063 et seq., May 19, 1980 and as subsequently amended), promulgated pursuant to Subtitle C of the Act, 42 U.S.C. §6921 et seq.

4. The above-referenced inspections revealed that Respondent's facility was being used for the generation, treatment, storage and disposal of hazardous waste.

5. Section 3005(a) of the Act, 42 U.S.C. 6925(a) prohibits the treatment of hazardous waste without a hazardous waste permit. EPA has determined that sludge being treated in an incinerator by the Respondent is hazardous waste and that Respondent has not received a hazardous waste permit. Respondent is, therefore, in violation of Section 3005(a) of the Act.

6. Section 3005(a) of the Act, 42 U.S.C. §6925(a), prohibits the disposal of hazardous waste without a hazardous waste permit. At the time of the above-referenced December 7, 1981 and December 28, 1981 inspections, Respondent was disposing of hazardous sludge and ash on the ground without having received a hazardous waste permit. Respondent was, therefore, in violation of Section 3005(a) of the Act.

7. Section 3005(a) of the Act, 42 U.S.C. §6925(a), prohibits the storage of hazardous waste without a hazardous waste permit. At the time of the above-referenced December 7, 1981 and December 28, 1981 inspections, Respondent was storing ash in a pile without having received a hazardous waste permit even though analysis by others had determined the ash to be hazardous. Respondent was, therefore, in violation of Section 3005(a) of the Act.

8. 40 CFR Part 262 sets standards for all generators of hazardous waste.

9. 40 CFR 262.11 requires that a person who generates a solid waste must determine if that waste is hazardous using the methods set forth in that section. While separate analyses were ultimately completed, Respondent had never made, as of December 7, 1981, the required determination for the ash generated at its facility and was, therefore, in violation of 40 CFR 262.11.

10. 40 CFR 262.40(c) requires that a generator keep records of any test results, waste analyses or other determinations made in accordance with 40 CFR 262.11 for at least three years. At the time of the above-referenced December 7, 1981 and December 28, 1981 inspections Respondent had no such records and was, therefore, in violation of 40 CFR 262.40(c).

11. 40 CFR 262.21(a) requires that manifests accompanying the shipment of hazardous waste shall contain an accurate description of the waste. During the above-referenced December 7, 1981 inspection, EPA determined that Respondent had failed to indicate in its manifests that the waste ash shipped by Respondent was hazardous. Respondent was, therefore, in violation of 40 CFR 262.21(a)

12. 40 CFR 262.42(b) requires that a generator file an Exception Report with EPA if he has not received within 45 days a copy of a manifest with the signature of the owner or operator of the facility to which hazardous waste has been shipped by the generator. The signed copy shows receipt of the hazardous waste by the treatment, storage, or disposal facility. During the above-referenced December 7, 1981 inspection EPA officials did not find that Respondent had available signed copies of manifests for the shipment of hazardous waste within 45 days of the date the waste was accepted from the Respondent by the initial transporter. Respondent had never filed Exception Reports with EPA and was, therefore, in violation of 40 CFR 262.42(b).

13. 40 CFR Part 265 sets standards for all hazardous waste treatment, storage and disposal facilities. These standards apply until a final administrative disposition on a permit application has been made with respect to a company's facility. No such disposition has been made with respect to Respondent's facility, and, therefore, the standards of Part 265 apply to that facility.

14. 40 CFR 265.13 requires that prior to treating, storing, or disposing of any hazardous waste, an owner or operator of a facility must obtain a detailed chemical and physical analysis of a representative sample of the waste. During the above-referenced December 7, 1981 and December 28, 1981 inspections, EPA officials found that containers with hazardous waste had been received by Respondent's facility, yet Respondent did not obtain an analysis of samples of the waste prior to treating, storing, or disposing of it. Respondent was, therefore, in violation of 40 CFR 265.13.

15. 40 CFR 265.35 requires that the owner or operator of any hazardous waste treatment, storage, or disposal facility must maintain aisle space adequate to allow the unobstructed movement of personnel and emergency equipment to any area of the facility operation. At the time of both of the above-referenced inspections, Respondent had stored drums in a manner that did not provide aisle space sufficient to allow unobstructed access by personnel and emergency equipment to the drum processing device and sludge burning incinerator. Respondent was, therefore, in violation of 40 CFR 265.35.

16. 40 CFR 265.31 requires that the owner or operator of a hazardous waste treatment, storage, or disposal facility must maintain and operate

that facility to minimize the possibility of a fire, explosion, or release of hazardous waste to the air, soil, or surface water. At the time of the above-referenced December 7, 1981 inspection, the Respondent was placing drums with hazardous waste in the drum processing incinerator without minimizing the possible release of hazardous waste into the air. At the time of the above-referenced December 7, 1981 and December 28, 1981 inspections, hazardous waste had spilled onto the ground, thereby threatening the release of hazardous waste into soils and surface waters. Respondent was, therefore, on both these dates in violation of 40 CFR 265.31.

17. 40 CFR §265.173(a) requires that containers holding hazardous waste remain closed during storage, except when it is necessary to add or remove waste. At the time of the above-referenced December 7, 1981 inspection, containers containing ignitable waste were not closed, even though waste was not then being added or removed from those containers. Respondent was, therefore, in violation of 40 CFR 265.173(a).

18. 40 CFR 265.251 requires the owner or operator of a facility that treats or stores hazardous waste in a pile to cover or otherwise manage the pile so that wind dispersal is controlled. During the above-referenced December 7, 1981 and December 28, 1981 inspections, Respondent had not protected from wind dispersal, by cover or other means, a pile of ash constituting hazardous waste. Respondent was, therefore, in violation of 40 CFR 265.251.

19. 40 CFR 265.253 requires that where the leachate or run-off from a pile constitutes a hazardous waste, the owner or operator must protect the pile from precipitation and run-on. At the time of both of the above-referenced inspections, while the ash pile was allegedly located on a concrete slab, Respondent had not protected the waste ash pile from precipitation and run-on, as required, and was therefore, in violation of 40 CFR 265.253.

20. 40 CFR 265.347 requires that the owner or operator of a facility that treats hazardous waste in an incinerator must immediately make appropriate corrections necessary to maintain steady state combustion conditions. Respondent treats hazardous waste in its sludge burning incinerator, yet Respondent failed to maintain steady state conditions during combustion in that incinerator. Respondent is, therefore, in violation of 40 CFR 265.347.

21. 40 CFR 265.377 requires that owners or operators of facilities that thermally treat hazardous waste in devices other than incinerators conduct monitoring and inspections, and immediately make necessary corrections to maintain steady state conditions, when those owners or operators are thermally treating hazardous waste. Respondent thermally treats hazardous waste in its drum processing device, yet no monitoring, inspection and corrections were carried out. Respondent was, therefore, in violation of 40 CFR 265.377.

PROPOSED CIVIL PENALTY

In view of the above-cited violations, and pursuant to the authority of Section 3008 of the Act, Complainant herewith proposes the assessment of a civil penalty in the amount of thirty-eight thousand and eight hundred dollars (\$38,800.00) against Central Steel Drum Company for the violations specified hereinabove. This penalty is broken down as follows:

For the violations of 42 U.S.C. 6925(a) :	\$10,000.00
For the violation of 40 CFR 262.11 :	\$ 500.00
For the violation of 40 CFR 262.40(c) :	\$ 300.00
For the violation of 40 CFR 262.21(a) :	\$ 2,000.00
For the violation of 40 CFR 262.42(b) :	\$ 500.00
For the violation of 40 CFR 265.13 :	\$ 3,000.00
For the violation of 40 CFR 265.35 :	\$ 3,000.00
For the violation of 40 CFR 265.31 :	\$ 6,500.00
For the violation of 40 CFR 265.173 :	\$ 500.00
For the violation of 40 CFR 265.251 :	\$ 4,000.00
For the violation of 40 CFR 265.253 :	\$ 3,000.00
For the violation of 40 CFR 265.347 :	\$ 4,000.00
For the violation of 40 CFR 265.377 :	<u>\$ 1,500.00</u>

TOTAL : \$38,800.00

COMPLIANCE ORDER

Based upon the foregoing, and pursuant to the authority of Section 3008 of the Act, Complainant herewith issues the following Compliance Order against Respondent herein:

1. Respondent shall, by no later than two (2) days after the date of this Compliance Order, insure that, in accordance with 40 CFR 265.173, all containers at its facility containing hazardous waste are closed at all times during storage.

2. Respondent shall, by no later than five (5) days after the date of this Compliance Order, rearrange its drum storage area in such a manner that adequate aisle space is provided for the movement of facility personnel and equipment in accordance with 40 CFR 265.35.

3. Respondent shall, by no later than twenty (20) days after the date of this Compliance Order, cover or otherwise manage the waste ash pile at its facility to control wind dispersal, pursuant to 40 CFR 265.251.

4. Respondent shall, by no later than twenty (20) days after the date of this Compliance Order, protect the waste ash pile from precipitation and run-on, as required by 40 CFR 265.253.

5. Respondent shall immediately cease disposal of hazardous waste at its facility or in any other unauthorized manner.

6. Respondent shall by no later than sixty (60) days after the effective date of this Order, cease to treat or store any hazardous waste at the facility. Continued operation of the site as a hazardous waste facility shall thereafter be contingent upon submission of a complete Part A of a hazardous waste permit application pursuant to 40 CFR Part 122, issuance of an "Interim Status Compliance Order" from EPA Region II and upon the company's compliance with interim status standards contained in 40 CFR Part 265.

7. Respondent shall immediately, prior to treating or storing any hazardous waste, obtain analysis of samples that are representative of any type of waste being treated or stored at the facility, pursuant to the requirements of 40 CFR 265.13. Records of such analyses shall be maintained at the facility to allow inspection by government officials.

8. Respondent shall immediately insure that all manifests accompanying the shipment of hazardous waste to and from the facility contain all the information required by 40 CFR 262.21 including an accurate description of the hazardous nature of any waste shipped.

9. Respondent shall file with EPA, as required by 40 CFR 262.42(b), an Exception Report for any hazardous waste shipments for which no completed manifest is returned from a permitted hazardous waste treatment, storage, or disposal facility and received by Respondent within 45 days after the wastes are accepted by a transporter.

10. Respondent shall, by no later than thirty (30) days after the date of this Compliance Order, identify and remove all topsoil contaminated with hazardous waste, in accordance with the provisions of the Act and the regulations promulgated thereunder.

11. Respondent shall, by no later than sixty (60) days after the date of this Compliance Order, present to EPA a suggested program (similar to that outlined in 40 CFR 265.91) for determining whether groundwater contamination has occurred. Upon approval of that program by EPA, Respondent shall, within thirty days, commence and, within ninety days, implement that program. The findings shall be immediately reported to EPA.

12. Respondent shall immediately take all necessary steps to minimize the possibility of a fire, explosion or release of hazardous waste or hazardous waste constituents, as required by 40 CFR 265.31.

13. Respondent shall immediately take steps to comply with all applicable requirements set forth at 40 CFR Part 265, Subpart O and Subpart P concerning the incineration and thermal treatment of hazardous waste. Such incineration and thermal treatment shall cease within 60 days of the effective date of this Order unless the conditions outlined in paragraph six of this Compliance Order have been met.

14. Respondent shall, within 60 days of the date of this Compliance Order, comply with all other applicable provisions of the Act and regulations promulgated thereunder.

NOTICE OF LIABILITY FOR ADDITIONAL CIVIL PENALTIES

Pursuant to the terms of Section 3008(a)(3) of the Act, a violator failing to take corrective action within the time specified in a Final Compliance Order is liable for a civil penalty of up to \$25,000 for each day of continued noncompliance. Such continued noncompliance may also result in suspension or revocation of any permits issued to the violator pursuant to the authority of the Act.

NOTICE OF OPPORTUNITY TO REQUEST A HEARING

As provided in Section 3008(b) of the Act, and in accordance with EPA's Consolidated Rules of Practices Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits, 40 CFR Part 22, 45 Fed. Reg. 24360 (April 9, 1980) (a copy of which accompanies this Complaint, Compliance Order, and Notice of Opportunity for Hearing), you have the right to request a hearing to contest any material fact set out in the Complaint, or to contest the appropriateness of the proposed penalty, or the terms of the Compliance Order. (Consistent with the provisions of Section 3008(b) of the Act, the hearing provided will be noticed and open to the general public, should you specifically request such a public hearing. In the absence of such a specific request, however, public notice of a scheduled hearing will not be published.)

To avoid being found in default, and having the proposed civil penalty assessed and the Compliance Order confirmed without further proceedings, you must file a written answer to the Complaint, which may include a request for a hearing. Your answer (if any) must be addressed to the Regional Hearing Clerk, U.S. Environmental Protection Agency, Region II, 26 Federal Plaza, New York, New York, 10278, and must be filed within thirty (30) days of your receipt of this Complaint, Compliance Order, and Notice of Opportunity for Hearing. Your answer must clearly and directly admit, deny or explain each of the fac-

tual allegations contained in the Complaint, and should contain (1) a clear statement of the facts which constitute the grounds of your defense, and (2) a concise statement of the contentions which you intend to place in issue at the hearing.

The denial of any material fact, or the raising of any affirmative defense, will be construed as a request for a hearing. Failure to deny any of the factual allegations in the Complaint will be deemed to constitute an admission of the undenied allegations. Your failure to file a written answer within thirty (30) days of receipt of this instrument will be deemed to represent your admission of all facts alleged in the Complaint, and a waiver of your right to a formal hearing to contest any of the facts alleged by the Complainant. Your default will result in the final issuance of the Compliance Order, and assessment of the proposed civil penalty, without further proceedings.

INFORMAL SETTLEMENT CONFERENCE

Whether or not you request a hearing, the EPA encourages settlement of this proceeding consistent with the provisions of the Act. At an informal conference with a representative of the Complainant you may comment on the charges and provide whatever additional information you feel is relevant to the disposition of this matter, including any actions you have taken to correct the violation, and any other special circumstances you care to raise. The Complainant has the authority to modify the amount of the proposed penalty, where appropriate, to reflect any settlement agreement reached with you in such conference, or to recommend that any or all of the charges be dismissed, if the circumstances so warrant. Your request for an informal conference and other questions that you may have regarding this Complaint, Compliance Order, and Notice of Opportunity for Hearing should be directed to William K. Sawyer, Attorney, General Enforcement Branch, U.S. Environmental Protection Agency, Region II, 26 Federal Plaza, New York, New York, 10278, telephone (212) 264-4472.

Please note that a request for an informal settlement conference does not extend the thirty (30) day period during which a written answer and request for a hearing must be submitted. The informal conference procedure may be pursued as an alternative to or simultaneously with the adjudicatory hearing procedure. However, no penalty reduction will be made simply because such a conference is held. Any settlement which may be reached as a result of such conference will be embodied in a written Consent Agreement and Final Compliance Order to be issued by the Regional Administrator of EPA, Region II, and signed by you or your representative. Your signing of such Consent Agreement would constitute a waiver of your right to request a hearing on any matter stipulated to therein.

RESOLUTION OF THIS PROCEEDING WITHOUT HEARING OR CONFERENCE

Instead of filing an answer requesting a hearing or requesting an informal settlement conference, you may choose to comply with the terms of the Compliance

Order, and to pay the proposed penalty. In that case, payment should be made by sending to the Regional Hearing Clerk, EPA, Region II, a cashier's or certified check in the amount of the penalty specified in the "Proposed Civil Penalty" section of this instrument. Your check must be made payable to the United States of America.

DATED: New York, New York

March 19, 1982

COMPLAINANT:

Michael P. Bonchonsky

MICHAEL P. BONCHONSKY

Acting Director

Enforcement Division

U.S. Environmental Protection Agency
Region II

26 Federal Plaza

New York, New York 10278

TO: Vincent J. Dotoli, Esq.
Lawyer Representing Central Steel Drum
Interstate 287 and McKinley Street
P.O. Box 196
South Plainfield, New Jersey 07080

cc: Jerry Burke
Office of Enforcement
New Jersey Department of
Environmental Protection

bcc: John Walsh, NJDEP
Charles Bazydlo, Newark Dept.
Engineering
Angela Morales, 2ES-SM
Tom Taccone, 2PM-PA ✓
Richard Mays (WH-527)
Alphonse Iannuzzi, NJDEP
John Witkowski, 2ES-SM

CERTIFICATE OF SERVICE

This is to certify that on the *24th* day of *March*, 1982 I served a true and correct copy of the foregoing Complaint by certified mail to Vincent J. Dotoli, Esq., Lawyer Representing Central Steel Drum, Interstate 287 and McKinley Street, P.O. 196, South Plainfield, New Jersey 07080. I handcarried the original foregoing Complaint to the Regional Hearing Clerk.

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